

House File 2211 - Introduced

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A BILL FOR

1 An Act requiring employers to provide school activity leave,
2 providing for penalties, and including applicability
3 provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 91F.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Child*" means a biological, adopted, or foster child,
5 a stepchild, a legal ward, or a child of a person standing in
6 loco parentis who is under eighteen years of age or is eighteen
7 years of age or older and incapable of self-care because of a
8 mental or physical disability.

9 2. "*Commissioner*" means the labor commissioner, appointed
10 pursuant to section 91.2.

11 3. "*Eligible employee*" means an employee as defined in
12 section 91A.2 who has been employed by the employer from whom
13 school activity leave is requested for at least twelve months
14 and for at least one thousand two hundred fifty hours during
15 the previous twelve-month period.

16 4. "*Employer*" means a person who, in this state, employs
17 fifty or more natural persons for each working day during
18 each of twenty or more calendar work weeks in the current or
19 preceding calendar year.

20 5. "*School activity*" means any activity of students
21 sponsored by a school, including athletic contests, concerts,
22 school plays, and events organized by student organizations.

23 6. "*School activity leave*" means full or partial absence
24 from an eligible employee's ordinary job responsibilities
25 either with full or partial pay or without pay, to attend a
26 school activity at which the eligible employee has a leadership
27 role.

28 Sec. 2. NEW SECTION. 91F.2 School activity leave
29 authorized.

30 An eligible employee shall be entitled to a total of two
31 hundred hours of school activity leave during any twelve-month
32 period.

33 Sec. 3. NEW SECTION. 91F.3 Exemption.

34 1. An employer may deny school activity leave under section
35 91F.2 to an eligible employee if all of the following apply:

1 *a.* Denial is necessary to prevent substantial economic
2 injury to the operations of the employer.

3 *b.* The employer notifies the employee of the intent of the
4 employer to deny restoration of the employee's position on such
5 basis at the time the employer determines that such injury
6 would occur.

7 *c.* In any case in which the school activity leave has
8 commenced, the employee elects not to return to employment
9 after receiving such notice.

10 2. This section applies only to an eligible employee who is
11 a salaried employee who is among the highest-paid ten percent
12 of the employees employed by the employer within seventy-five
13 miles of the facility at which the eligible employee is
14 employed.

15 Sec. 4. NEW SECTION. **91F.4 School activity leave**
16 **requirements.**

17 1. An employer shall not be required to pay an eligible
18 employee for any school activity leave taken pursuant to
19 section 91F.2. However, an eligible employee taking school
20 activity leave permitted by this chapter may elect to
21 substitute for the school activity leave permitted under this
22 chapter any of the eligible employee's accrued vacation leave
23 or other accrued time off during such period or any other paid
24 or unpaid time off negotiated with the employer.

25 2. An eligible employee shall provide the employer with
26 reasonable advance notice of foreseeable need for school
27 activity leave. Reasonable notice shall be at least thirty
28 days where practical. An eligible employee shall make a
29 reasonable effort in the scheduling of school activity leave so
30 as not to unduly disrupt the operations of an employer.

31 3. An employer may require that a request for school
32 activity leave under this chapter be supported by a
33 certification issued by a school superintendent, principal, or
34 other school authority of the eligible employee's child. The
35 eligible employee shall provide, in a timely manner, a copy of

1 such certification to the employer. The certification shall
2 include the date on which the school activity leave is expected
3 to commence and the expected duration of the school activity
4 leave. An employer may require that an eligible employee
5 obtain subsequent recertification on a reasonable basis.

6 Sec. 5. NEW SECTION. 91F.5 Employer notice — complaint
7 process.

8 An employer shall post, in conspicuous places on the
9 premises of the employer where notices to eligible employees
10 and applicants for employment are customarily posted, a notice,
11 to be prepared or approved by the commissioner, setting forth
12 excerpts from, or summaries of, the pertinent provisions of
13 this chapter and information pertaining to the submission of a
14 complaint to the commissioner.

15 Sec. 6. NEW SECTION. 91F.6 Prohibited acts.

16 1. An employer shall not refuse to hire, discharge, fine,
17 suspend, expel, deny any employment benefit to, or discriminate
18 against an individual for exercising the individual's rights
19 to take school activity leave or for giving any information,
20 testifying, or cooperating with an investigation pursuant to
21 this chapter.

22 2. An employer shall not interfere with an investigation or
23 proceeding pursuant to this chapter.

24 Sec. 7. NEW SECTION. 91F.7 Complaints — investigative
25 authority.

26 1. An eligible employee may submit a complaint to the
27 commissioner alleging a violation of this chapter.

28 2. The commissioner, or the commissioner's designee, shall
29 have the power to enter the premises of an employer, when the
30 premises is open or in operation, for the purpose of enforcing
31 this chapter.

32 3. The commissioner, or the commissioner's designee,
33 may issue subpoenas, administer oaths, and take testimony
34 in all matters relating the enforcement of this chapter.
35 Witnesses subpoenaed and testifying before the commissioner

1 or the commissioner's designee shall be paid the same fees as
2 witnesses under section 622.69, payment to be made out of the
3 funds appropriated to the division of labor services.

4 4. The commissioner may require employers to keep records
5 pertaining to compliance with this chapter. The commissioner
6 shall not require an employer to submit to the commissioner
7 records more than once during any twelve-month period, unless
8 the commissioner has reasonable cause to believe a violation
9 of this chapter has occurred.

10 Sec. 8. NEW SECTION. 91F.8 Penalties — enforcement.

11 1. An employer that fails to grant an eligible employee
12 school activity leave authorized by section 91F.2 shall be
13 liable to the eligible employee for damages equal to the
14 amount of any wages, salary, employment benefits, or other
15 compensation denied or lost to such employee by reason of the
16 violation; court costs; reasonable attorney fees; and any other
17 equitable relief the court deems appropriate.

18 2. An employer that violates this chapter shall be assessed
19 a civil penalty of one hundred dollars for each separate
20 offense. The commissioner, or the commissioner's designee,
21 may recover the civil penalty. All civil penalties collected
22 pursuant to this chapter shall be deposited in the general fund
23 of the state.

24 Sec. 9. NEW SECTION. 91F.9 Rules.

25 The commissioner shall adopt, pursuant to chapter 17A, any
26 rules necessary to administer this chapter.

27 Sec. 10. APPLICABILITY. This Act applies only to those
28 collective bargaining agreements entered into on or after the
29 effective date of this Act.

30 EXPLANATION

31 This bill provides that an eligible employee is entitled to
32 200 hours of school activity leave during any 12-month period.
33 "School activity leave" is defined as full or partial absence
34 from an eligible employee's ordinary job responsibilities
35 either with full or partial pay or without pay, to attend a

1 school activity at which the eligible employee has a leadership
2 role. An "eligible employee" is defined as an employee as
3 defined in Code section 91A.2 who has been employed for at
4 least 12 months and for least 1,250 hours of service during the
5 previous 12-month period by the employer from whom leave is
6 requested. An "employer" is defined as a person who, in this
7 state, employs 50 or more natural persons for each working day
8 during each of 20 or more calendar work weeks in the current
9 or preceding calendar year. A "school activity" is defined
10 as any activity of students sponsored by a school, including
11 athletic contests, concerts, school plays, and events organized
12 by student organizations.

13 The bill provides that an employer may deny school activity
14 leave to an eligible employee if denial is necessary to prevent
15 substantial economic injury to the operations of the employer;
16 the employer notifies the employee of the employer's intent to
17 deny restoration of the employee's position on such basis at
18 the time the employer determines that such injury would occur;
19 and in any case in which the leave has commenced, the employee
20 elects not to return to employment after receiving such notice.
21 This exemption applies only to an eligible employee who is a
22 salaried employee who is among the highest paid 10 percent of
23 the employees employed by the employer within 75 miles of the
24 facility at which the employee is employed.

25 The bill provides that school activity leave need not be paid
26 leave. However, an eligible employee may elect to substitute
27 for school activity leave any of the eligible employee's
28 accrued vacation leave or other accrued time off during such
29 period or any other paid or unpaid time off negotiated with the
30 employer.

31 The bill requires an eligible employee to provide the
32 employer with reasonable advance notice of foreseeable need for
33 school activity leave. Reasonable notice shall be at least 30
34 days where practical. An eligible employee is also required
35 to make a reasonable effort in the scheduling of school

1 activity leave so as not to unduly disrupt the operations of
2 an employer.

3 The bill provides that an employer may require that a request
4 for school activity leave be supported by a certification
5 issued by a school superintendent, principal, or other school
6 authority of the eligible employee's child. The eligible
7 employee must then provide, in a timely manner, certification
8 to the employer. The certification is to include the date
9 on which the school activity leave is expected to commence
10 and the expected duration of the leave. The bill provides
11 that an employer may require that an eligible employee obtain
12 subsequent recertification on a reasonable basis.

13 The bill requires each employer to post a notice, to be
14 prepared or approved by the labor commissioner, setting forth
15 excerpts from, or summaries of, the pertinent provisions of
16 the bill and information pertaining to the submission of a
17 complaint to the labor commissioner.

18 The bill prohibits an employer from refusing to hire,
19 discharging, fining, suspending, expelling, denying any
20 employment benefit to, or discriminating against an individual
21 for exercising the individual's rights to take school activity
22 leave or for giving any information, testifying, or cooperating
23 with an investigation pursuant to the bill. The bill also
24 prohibits an employer from interfering with an investigation or
25 proceeding pursuant to the bill.

26 The bill provides that an eligible employee may submit a
27 complaint to the labor commissioner alleging a violation of
28 the bill. The bill provides that the labor commissioner, or
29 the commissioner's designee, may enter the premises of an
30 employer, when the premises is open or in operation, for the
31 purpose of enforcing the bill's provisions. The bill provides
32 that the labor commissioner, or the commissioner's designee,
33 may issue subpoenas, administer oaths, and take testimony in
34 all matters relating to the enforcement of the bill. The bill
35 provides that the labor commissioner may require employers

1 to keep records pertaining to compliance with the bill, but
2 cannot require any employer to submit records more than once
3 during any 12-month period, unless the labor commissioner
4 has reasonable cause to believe a violation of the bill has
5 occurred.

6 The bill provides that an employer that fails to grant
7 an eligible employee school activity leave is liable to the
8 employee for damages equal to the amount of any wages, salary,
9 employment benefits, or other compensation denied or lost
10 to the employee by reason of the violation; court costs;
11 reasonable attorney fees; and any other equitable relief the
12 court deems appropriate. The bill also provides that any
13 employer that violates the bill shall be assessed a civil
14 penalty of \$100, which is to be deposited in the state general
15 fund, for each separate offense. The labor commissioner, or
16 the commissioner's designee, may recover the civil penalty.

17 The bill directs the labor commissioner to adopt any rules
18 necessary to administer the bill.

19 The bill applies to only those collective bargaining
20 agreements entered into on or after the effective date of the
21 bill.